**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**
**&**
**THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID**

**MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929**

**LA.App..No. 474 of 2004**
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**LAR.1/2002 of SUB COURT, NEDUMANGAD**
**.....**

**APPELLANT: CLAIMANTS**
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**1. G.VIJAYAN**

**2. K.V.SUNITHA, BOTH ARE RESIDING AT VIJAYALAYAM, KALLAR, NOW RESIDING AT SREEVALSAM, KUZHUPALLY PARAMBU, EAST KADUNGALLUR, U.C.COLLEGE P.O., ALUVA.**

**BY ADV. SRI.V.CHITAMBARESH**
**SRI.T.C.SURESH MENON**
**SMT.M.R.VALSA**
**SRI.SREEKANTH.K.R**
**SMT.G.GEETHISHA**

**RESPONDENTS: RESPONDENT**
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**STATE OF KERALA, REP: BY THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SRI. K.R. DEEPA**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 22/10/2007 ALONG WITH LAA NO. 943 OF 2004, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**KURIAN JOSEPH & HARUN-UL-RASHID, JJ.**

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**L.A.A.Nos.474 & 943 of 2004**

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**Dated: October 22, 2007**

**JUDGMENT**

**Kurian Joseph, J.**

These are appeals filed by the claimants and the State respectively against the judgment and decree in LAR No.1/2002 on the file of the Sub Court, Nedumangad. In view of the judgment in LAA No.1556/2000, the land value granted by the Reference Court has become final.

2. For the claimants, there is a grievance with regard to interest for the belated disbursement of the amounts. The award was passed on 23.11.1996 and the undisputed amount of Rs.7,13,282/- was paid to them only on 30.1.2001. The possession was taken on 24.2.1997. It is seen that they had approached this court for expeditious disbursement of the amount leading to the judgment in O.P.No.8884/2000 directing disbursement of the amount referred to above within 10 days from the date of production of a copy of the judgment. Despite such a direction, the amount was paid only on 30.1.2001, after almost five months.

3. Though the claimants have raised a claim for enhancement of compensation, in view of the fixation of land value at Rs.s8250/- per Are in LAA No.1556/2000, no further enhancement on that count can be given. In that view of the matter, the appeal filed by the State is only to be dismissed since the land value has become final.

4. Further, the grievance of the claimants is with regard to interest under sec.34 of the Land Acquisition Act. They have a case that since the amount of compensation is not paid within the stipulated time, they are entitled to get interest at the rate of 9% for one year from the date of taking possession and

thereafter at 15% till the date of payment. In view of the Bench decision of this court in *Mariyumma v. State of Kerala - 1991 (1) KLT 606,* non-payment of interest under sec.34 is also an issue to be considered in a reference under sec.18 of the Land Acquisition Act.

5. The further question is whether the claimant is to pay court-fee on that count. That position is also settled in favour of the claimants by the Bench decision of this court in *State of Kerala v. Mytheen Pillai - 1996 (1) KLT 587* which was followed in *Varghese v. State - 2003 (3) KLT SN Case No.28*.

6. Therefore, while rejecting the claim made by the appellants in LAA No.474/2004 for enhancement of land value, we hold that the claimants shall be entitled to interest at the rate of 9% from 24.2.1997 for one year and thereafter at the rate of 15% till 30.1.2001 on the original award amount referred to above.

L.A.A.No.474/2004 is allowed and LAA No.943/2004 is dismissed.

**KURIAN JOSEPH**
**JUDGE**

**HARUN-UL-RASHID**
**JUDGE.**

mt/-